

CONTINUED CARE COMMITMENT AGREEMENT

Montevue Assisted Living Facility
Continuation of Subsidized Care
by and between
Aurora Holdings VII, LLC
and
Frederick County, Maryland

This **CONTINUED CARE COMMITMENT AGREEMENT** ("Agreement") is made, entered into and effective as of the _____ day of _____, 2013, by and between Aurora Holdings VII, LLC, a Maryland limited liability company with a principal place of business in Millersville, Maryland ("Aurora") and the Board of County Commissioners for Frederick County, Maryland, a body corporate and politic and political subdivision of the State of Maryland ("County").

WHEREAS, County owns a skilled nursing facility known as the Citizens' Care and Rehabilitation Center ("CCRC") located in Frederick, Maryland which facility includes a 75 bed assisted living wing known as the Montevue Assisted Living Facility ("MALF"); and

WHEREAS, Aurora has offered to purchase CCRC from County, which purchase would include MALF, and County is considering selling CCRC to Aurora; and

WHEREAS, approximately 60 of MALF's 75 beds are occupied by individuals whose cost of care is subsidized by County while 15 beds are occupied by private pay individuals; and

WHEREAS, in the event Aurora purchases CCRC, County would like assisted living care for the subsidized MALF residents to continue for so long as these individuals require this level of care, and Aurora is agreeable to providing this continued care in exchange for the payments to be made by County under this Agreement.

NOW, THEREFORE, THIS CONTINUED CARE COMMITMENT AGREEMENT WITNESSETH, that for and in consideration of the mutual promises, and other good and valuable considerations, the receipt and adequacy whereof is hereby acknowledged, the County and Aurora do hereby agree as follows:

- I. RECITALS.** The recitals set forth above are hereby incorporated into and made a part of this Continued Care Commitment Agreement.
- II. ASSISTED LIVING CARE.** As of the Closing Date, as defined in that Asset Purchase Agreement between the parties for the sale of CCRC, there were approximately 60 MALF residents, identified in Exhibit A that is attached and incorporated by reference, whose cost of care was subsidized by County. For howsoever long these MALF residents are medically appropriate to reside in an assisted living facility, Aurora shall provide such care at the MALF wing of CCRC at no additional cost to these individuals other than what they might be paying as of the Closing Date. At such time as it is no longer medically appropriate for these residents to reside in an assisted living facility, but they require skilled nursing care, Aurora will give these individuals preference for admission into its CCRC skilled nursing facility.

III. PAYMENTS. In consideration for Aurora continuing to care for the MALF residents discussed in Section II above, County shall pay Aurora the aggregate amount of Ten Million Seven Hundred Thousand dollars (\$10,700,000.00), in four installments as follows:

\$3,500,000.00	payable at Closing of Aurora's purchase of CCRC, including MALF
\$3,250,000.00	payable on the first anniversary of the Closing Date
\$2,250,000.00	payable on the second anniversary of the Closing Date
<u>\$1,700,000.00</u>	payable on the third anniversary of the Closing Date
\$10,700,000.00	total

To the extent that County does not make the foregoing payments, Aurora, in addition to any other rights and remedies it might have against County, shall no longer have any obligation to provide assisted living services to those subsidized MALF residents subject of this Agreement.

IV. FUTURE INDIGENT CARE. In addition to Aurora's continuing care obligation for the subsidized MALF residents required above, after purchasing CCRC Aurora shall accept new assisted living residents requiring financial assistance, to the extent MALF beds are available, provided County agrees to pay, and continue to pay, Aurora's full private pay amount in place at the time of each admission. The County's commitment to fund these additional MALF residents must be reflected in a separate written agreement between Aurora and the County and shall not be required or inferred by any provision of this Agreement.

V. APPROPRIATION OF FUNDS. The President of the Board of County Commissioners of the County and the County Executive of the County agree, to the extent permitted by applicable law, to do all things lawfully within their respective powers annually to request the appropriation of funds by the Board of County Commissioners of Frederick County or the Frederick County Council, as the case may be, from which to pay all amounts properly due and payable under this Agreement. This obligation includes (without limitation) requesting adequate funds be included in the budget submitted to the Board of County Commissioners or the Frederick County Council, as the case may be, to meet the County's obligations hereunder in full in its next fiscal year budget. Nothing in this Section shall obligate the Board of County Commissioners of the County or the Frederick County Council to make any appropriation.

VI. GENERAL

- A. The parties hereto shall cooperate with each other to accomplish the intent of this Agreement.
- B. The parties affirm that the persons executing this Agreement on their respective behalf are authorized and empowered to act on behalf of the respective parties.

- C. Except for the parties' Asset Purchase Agreement for the purchase and sale of CCRC, including MALF, this Continued Care Commitment Agreement constitutes the entire agreement between the parties with respect to Aurora's obligation to provided continued care to MALF residents.
- D. Other than to an operating affiliate Aurora's rights under this Agreement may not be assigned except with the written consent of County and any assignment shall not relieve Aurora of responsibility for compliance with these obligations. This Agreement shall inure to and be binding upon the parties hereto, their agents, successors, and assigns.
- E. Neither party shall be liable to the other, under any theory whatsoever, for special, consequential, indirect or incidental damages of any nature, irrespective of whether a party had notice of the possibility of such damages and irrespective of whether resulting from negligence.
- F. This Agreement and the rights and liabilities of the parties shall be determined in accordance with Maryland law. Exclusive venue for all disputes shall reside in Maryland state courts, initially those sitting in Frederick, Maryland, and the parties hereby submit to the exclusive venue of such courts.
- G. All notices, correspondences, invoices and other communications shall be addressed:

To County at:

Frederick County Government
Winchester Hall
12 E. Church Street
Frederick, MD 21701
Attn: County Manager
Phone: (301) 600-9000

To Aurora at:

Aurora Holdings VII, LLC
8227 Cloverleaf Drive, Suite 309
Millersville, Maryland 21108
Attn: President
Phone: (410) 729-8406

IN WITNESS WHEREOF, the parties hereto have caused this Continued Care Commitment Agreement to be executed by their proper and duly authorized officers, effective the day and year first above written.

WITNESS:

AURORA HOLDINGS VII, LLC

_____ BY: _____ (SEAL)
Date

WITNESS:

**BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND**
A body corporate and politic

_____ BY: _____ (SEAL)
Blaine R. Young Date
President